

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 23058 of 2004

Between:

N. Venkata Ramana Murthy, S/o. Keshava Swamy,
A.P. Eastern Power Distribution Corporation Ltd. Visakhapatnam,
Visakhapatnam District.

..... PETITIONER

AND

- 1 The State of Andhra Pradesh, Rep by Principal Secretary,
Coal & Energy Department, Secretariat, Hyderabad.
- 2 The Chairman & Managing Director, A.P. TRANCO,

Vidyut Soudha, Somajiguda,
Hyderabad.

- 3 The Chairman & Managing Director, A.P. Eastern
Power Distribution Corporation Ltd.
Suryabagh, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly one in the nature of writ of Mandamus declaring the action of the Respondents in keeping the petitioner under prolonged suspension (i.e. for more than 3 1/2 years) Memo No. CEE/O&HRD/APEDPCL/DS/AS/PO4.1/ F.No.62/2001 D.O.No.25, dt.21-05-

2001, is illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the Judgments of Honourable Apex Court and Honourable High Court and also contrary to G.O.Ms.No. 86 GAD (Ser-II) Department dt.8-03-1994 and set-aside the same consequently declare the action of the respondents in not re-instating the petitioner on par with Sri A.T. Subba Rao, A.D.E. Who has been reinstated with all consequential benefits vide Memo No. CGH/HRD/TRC/DS(P)/AS(P)/PO.IV/JPO.1/20 / 04 dated 08-1-2004 who is involved in the same case pending at ACB, Court, Visakhapatnam, as illegal, arbitrary by declaring the petitioner is entitled for re-instatement in to service with all consequential benefits and to pass such other order or orders.

Counsel for the Petitioner:MR.K.SATYANARYANA MURTHY

Counsel for the Respondent No.1 : G.P. for Energy, MR.S.RAVINDRANATH

Counsel for the Respondent Nos.2 & 3:Mr.M.Subba Rao,SC.

The Court at the admission stage made the following :

ORDER:

This writ petition is filed questioning the action of the respondents in placing the petitioner under prolonged suspension by proceedings dated 21-05-2001.

2. The allegation against the petitioner is that he along with one A.T.Subba Rao was trapped by the Anti-Corruption Bureau while accepting Rs.4,000/- from Durga Madhava Rao for extending official favour. The said amount of Rs.4,000/- was recovered from an envelope placed amidst papers kept in a plastic tray found on the table of the said A.T.Subba Rao. The grievance of the

petitioner is that though the said A.T.Subba Rao was placed under suspension, the suspension order passed against the said A.T.Subba Rao was revoked. Hence the writ petition.

3. Learned counsel appearing for the petitioner contended that though the petitioner was placed under suspension for more than two years, there was no progress in the departmental enquiry and that the suspension order passed against a similarly placed person has been revoked, the impugned proceedings against the petitioner suffers from incurable legal infirmities and therefore, he prays to set aside the impugned proceedings.

4. On the other hand, the learned Standing Counsel appearing for the respondents contended that this is a case where the petitioner along with another accepted the bribe, and though the tainted amount was recovered from A.T.Subba Rao, it is very clear from the evidence that the petitioner along with the said A.T.Subba Rao demanded the amount from Durga Madhava Rao for extending official favour, and, therefore, the impugned proceedings does not suffer from any incurable infirmities so as to call interference of this Court.

5. It is brought to the notice of this Court that when the Anti-Corruption Bureau has registered a case against the petitioner and the said A.T.Subba Rao, they were placed under suspension. Thereafter, the suspension order against the said A.T.Subba Rao, who is shown as A.O.-1, has been revoked. The case of the petitioner stands on the same footing to that of the said A.T.Subba Rao, and therefore, the respondents ought to have revoked the suspension order against the petitioner also. Furthermore, tainted amount was recovered from the table of the said A.T.Subba Rao, but, not from the petitioner. Though the allegation against the petitioner and the said A.T.Subba Rao is that they demanded certain amount from Durga Madhava Rao, but no amount was recovered from the possession of the petitioner. Therefore, the case of the petitioner stands on a better footing than that of the said A.T.Subba Rao.

6. As per G.O.Ms.No.86, G.A.D., dated 08-03-1994, an outer limit be provided as two years from the date of suspension, failing which the public servant may have to be reinstated without prejudice to the proceedings being pursued. However, in exceptional cases, considering the gravity of the charges, one could be continued under suspension even beyond a period of two years, especially in cases where there is deliberate delay caused due to non-cooperation of the employee concerned.

7. It is not a case of non-cooperation by the petitioner in conducting an enquiry. Therefore, placing the petitioner under suspension beyond two years is contrary to the Government order and hence, the impugned proceedings are liable to be set aside.

8. Accordingly, the Writ Petition is allowed setting aside the impugned proceedings dated 21-05-2001. No costs.

22-12-2004

Note:Furnish C.C. in four days.

(B/o)

Prv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devender Gupta, the Chief Justice on this Wednesday the
Twenty Second Day of December Two Thousand and Four.

ASSISTANT REGISTRAR

To

- 1 The Principal Secretary, State of Andhra Pradesh,
Coal & Energy Department, Secretariat, Hyderabad.
- 2 The Chairman & Managing Director, A.P. TRANSCO,
Vidyut Soudha, Somajiguda,
Hyderabad.
- 3 The Chairman & Managing Director, A.P. Eastern
Power Distribution Corporation Limited.

Suryabagh, Visakhapatnam.

4 Two CD copies.

5 Two CCs to GP for Energy,

High Court of A.P., Hyderabad (OUT).